

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail
Priority Mail Contract 108

Docket No. MC2015-27

Competitive Product Prices
Priority Mail Contract 108 (MC2015-27)
Negotiated Service Agreement

Docket No. CP2015-36

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE REQUEST TO ADD
PRIORITY MAIL CONTRACT 108
TO COMPETITIVE PRODUCT LIST

(February 10, 2015)

The Public Representative hereby provides comments pursuant to Order No. 2341.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Request to add Priority Mail Contract 108 to the competitive product list.²

The Postal Service's Request includes a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. § 3633(a), a public (redacted) version of Governors' Decision No. 11-6 and related analysis, a public version of Priority Mail shipping services Contract 108, and proposed changes to the Mail Classification Schedule competitive product list with the addition underlined. The Postal Service also

¹ Notice and Order Concerning the Addition of Priority Mail Contract 108 to the Competitive Product List, February 3, 2015 (Order No. 2341).

² Request of the United States Postal Service to Add Priority Mail Contract 108 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, January 30, 2015 (Request).

filed (under seal) an unredacted version of Governors' Decision No. 11-6, the contract related to the proposed new product, and supporting financial data.

According to the Postal Service, Priority Mail Contract 108 is a competitive product "not of general applicability" within the meaning of 39 U.S.C. § 3632(b)(3). Request at 1. The Postal Service also maintains that the prices and classification underlying the instant contract are supported by Governors' Decision No. 11-6.³

The effective date of the Priority Mail Contract 108 is one business day following the day on which Commission issues all necessary regulatory approvals. Request, Attachment B at 4. The contract is scheduled to expire 3 years from the effective date, subject to early termination provisions. *Id.*

COMMENTS

The Public Representative has reviewed the Postal Service's Request, including the Statement of Supporting Justification, as well as the contract and the worksheets filed under seal with the Request. Based upon that review, the Public Representative concludes that Priority Mail Contract 108 should be categorized as a competitive product and added to the competitive product list. In addition, it appears that Priority Mail Contract 108 should generate sufficient revenues to cover costs in the first year, and thereby satisfy 39 U.S.C. § 3633 (a) during the first year.

Product List Assignment. Pursuant to 39 U.S.C. § 3642, the Postal Service requests that Priority Mail Contract 108 be added to the competitive product list. 39 U.S.C. § 3642 requires the Commission to consider whether "the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products." 39 U.S.C. § 3642(b)(1). Products over which the Postal Service exercises

³ Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, March 22, 2011 (Governors' Decision No. 11-6).

such power are categorized as market dominant while all others are categorized as competitive.

The Postal Service's Statement of Supporting Justification makes a number of assertions that address the considerations of section 3642(b)(1). Request, Attachment D at 2. These assertions appear reasonable. Based upon these assertions, the Public Representative concludes that the Postal Service's Request to add Priority Mail Contract 108 to the competitive product list is appropriate.

Requirements of 39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's rates for competitive products must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the financial spreadsheets and the contract filed under seal with the Request, it appears that the negotiated prices should generate sufficient revenues to cover costs during the first year of the contract, and therefore meet the requirements of 39 U.S.C. 3633(a) during the first year.

The contract contains several terms that affect prices and adjust them periodically. Request, Attachment B at 2-4. As noted above, Priority Mail Contract 108 is expected to remain in effect for a period of three years. The contract includes a mechanism for the annual adjustment of prices,⁴ which should help maintain the contract's ability to meet the requirements of 39 U.S.C. § 3633(a) over the three-year period. The Public Representative is mindful that the Postal Service will file cost, revenue and volume data in each year's Annual Compliance Report. That will aid the Commission in ensuring that the Priority Mail Contract 108 continues to comply with the requirements of 39 U.S.C. § 3633(a).

⁴ The annual price adjustments are linked to the most recent change in prices of general applicability for Priority Mail Commercial Plus. *Id* at 4.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

Lyudmila Y. Bzhilyanskaya
Public Representative

901 New York Ave. NW
Washington, DC 20268-0001
202-789-6849
lyudmila.bzhilyanskaya@prc.gov